THE APPLICATION OF STRICT CRIMINAL LIABILITIES TO THE SPILLAGE OF OIL; THE PRACTICAL IMPACT ON EFFECTIVE SPILL RESPONSE

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ABSTRACT: *In spite of the marked success of the Federal Water Pollution Control Act (FWPCA - 33 USC 1251 et seq) and subsequent amendments in restoring and protecting our waterways, the Department of Justice (DOJ) has of late increasingly resorted to unrelated law to inject the concept of strict criminal liability for accidental spillage of oil. The application of strict liability for the spillage of oil can engender criminal penalties for accidental, unintentional spills in the same manner as if the spill was a result of an intentional, purposeful breach of the law. This paper describes the impact of a threat of imposition of strict criminal liability on coordination and communication between those directing a spill response. It describes the chill created when the threat of such liability becomes a reality and the resulting constraints imposed when that specter surfaces, constraints that are both self-imposed and imposed on coordinators by their legal advisors. The paper also identifies a solution in the form of legislation d aimed at limiting the use of unrelated law in oil spills to pull the teeth from this threat without allowing real criminals to escape. Importantly, it also reveals the increased threat to the environment caused by the imposition of strict criminal liability in oil spills resulting an unnecessary degradation of response effectiveness. It also suggests a unique opportunity for bi-lateral support for environmental protection from both commercial and environmental interests.*

Discussion

The imposition of a specific penalty for intentional or unintentional discharge of oil into U.S. waterways is of relatively recent origin. Until the late 1960's, oil and other noxious pollutants were routinely so discharged into U.S. waters with little regard for the consequences. For those damaged by such discharges, the only remedy available was through tort action in court.

Before that time, relatively few municipal sanitary sewage plants accomplished secondary treatment before final discharge into waterways. Many municipalities also combined storm and sanitary sewage systems in such a way that sewage system overloads during heavy rainfall inevitably resulted in the discharge of raw sewage with the storm water into receiving waterways. Furthermore, disposal of used motor oil and other like pollutants into storm sewer sewers was a common practice - again, with little concern for the consequences.

Industrial and other "point source" discharges had no greater concern with the content of their discharge streams nor regard for the consequences. Ship salvors and others involved in dealing with vessel strandings and the like thought little of jettisoning oil cargo to lighten ship to remove her from her strand. Furthermore, operational pollution, such as routinely discharging the oily "slops" resulting from vessel tank washing over the side, contributed to substantial degredation of the waters and shorelines of coastal states and of the oceans themselves. Thor Heyerdahl's expeditions (Kon Tiki in 1947 and Ra I in 1969) reported significant quantities of oil globules, most probably from such tanker operations, floating on vast stretches of the oceans and threatening surface phytoplankton.

These conditions existed because, until the late 1960's, there was no law specifically and clearly prohibiting such practices and therefore little mechanism for their control or for governmental oversight over them.

By the 1960's we were experiencing such phenomena as spontaneous combustion of the Cuyahoga River and substantial threat to the continued existence of the life of many significant bodies of water. Lake Erie, for example, had been declared dead and beyond hope of recovery and most waterways near major cities were little better than open sewers.

In the 1950's these factors, combined with the impact of Rachel Carson's book, *Silent Spring*, began to galvanize public concern, initiating the beginnings of a grass roots environmental movement that continues today. This, in turn, attracted the concern of the federal government resulted in the subsequent passage of such laws as the Clean Water Act and the Federal Water Pollution Control Act (FWPCA) in the 1970's. Under these laws, intentional municipal and industrial discharges of oil and other pollutants were, for the first time, specifically identified and prohibited and civil penalties imposed for both accidental and intentional discharges. Severe criminal penalties were also imposed by section 311(b)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(3)).for, among other things, intentional discharges or for those resulting from "gross negligence" or "willful misconduct".

The FWPCA and its far-reaching enforcement by the U.S. Coast Guard and the Environmental Protection Agency (EPA) have resulted in the substantial and marked reduction in both

intentional and accidental discharges of pollutants from all sources. The reduction was such that endangered waterways have by and large recovered and most waterways have returned to their early 20th century condition. The use of waterways as uncontrolled sewage receptors is now unthinkable; lobsters again inhabit New York Harbor and the Potomac River has become swimmable for the first time since the late 19th Century.

Importantly, even though in developing the FWPCA the Congress did not see fit to include the concept of strict criminal liability as a punishment, notorious violators of the Act have nevertheless been either put out of business, put in jail, or both. The system designed by Congress to end wanton pollution of our environment has worked remarkably well and the penalties provided by it have proven up to doing the job. The out-reaching by the DOJ to unrelated statutes to enlist strict criminal liability as a weapon punish accidental oil pollution is therefore not only unnecessary, we intend to demonstrate that it is counter-productive to the intent of the Congress – protection of the environment.

Criminalization of oil spills

In spite of the success of the FWPCA in reforming industrial and municipal practices to restore and protect our waterways, the DOJ has in recent years, elected to enter the fray and sought to impose strict criminal liability penalties for oil discharges - penalties as will be demonstrated are unnecessary and in addition to those provided by the FWPCA and its amendments.

To accomplish this, the Department has seized upon earlier legislation unrelated to the FWPCA. These unrelated laws include the 1889 Rivers and Harbors Act - popularly styled the "Refuse Act", and the Migratory Bird Treaty Act of 1916, both of which carry criminal penalties imposing strict liability for violations. "Strict criminal liability" means that criminal penalties will be imposed for violations without regard to criminal intent or standard of care – in other words accidental, unintentional consequences of an otherwise legal activity can engender criminal penalties in the same manner as would intentional breaches of the law.

The Rivers and Harbors Act. The operative language of the Act is as follows:

> "It shall not be lawful to **throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged, or deposited** either from or out of any ship, barge, or other floating craft of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States, or into any tributary of any navigable water from which the same shall float or be washed into such navigable water . . ." (emphasis added)

From the quoted language and particularly the emphasized terminology, it can be reasonably concluded that the intent of the Rivers and Harbors Act (33 USC 407) was to prevent the interference with navigation that would result from the intentional disposal ("throw, discharge or deposit") of material into navigable waterways. From the quoted exculpatory language "other than that flowing from streets and sewers and passing therefrom in a liquid state", it would seem logical to conclude that the principal concern was with solid refuse. The conclusion that this is the intent is further reinforced by the fact that the U.S. Army Corps of Engineers, the husbanders of our navigable waterways, is empowered by the Act with the authority to enforce it. Since there was little transportation of or use of petroleum oil in connection with such waterways at the time this law was enacted, it is highly doubtful that the legislature envisioned or intended oil to be a material that would impede navigation or, for that matter, regarded liquid oil as refuse of any kind.

The Migratory Bird Treaty Act. The Migratory Bird Treaty Act (16 USC 703) was enacted to implement an international treaty to which the United States had acceded. The intent of the treaty and its implementing domestic law was to protect migratory birds, particularly with respect to depredations hunting and other activities that were seriously threatening their survival. The operative language of this Act is as follows:

> "it shall be unlawful at any time, by any means or in any manner, to **pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export,** any migratory bird . . . " (emphasis added)

The quoted language describes intentional activities, the result of which is harmful to or that otherwise deplete identified migratory bird stocks. To urge that accidental, unintentional oiling of migratory birds is compatible with the language of this Act, as represented by the quoted terms, involves a broad leap of logic that only a lawyer could appreciate.

That both Acts went unused for punishing oil spillers for decades following their passage (80 years for the Refuse Act and 54 for the Migratory Bird Treaty Act) is further evidence that, during the intervening years, neither overseeing agencies nor the DOJ itself regarded them as applicable for criminal punishment of accidental (or even intentional) the spillage of oil.

The question has been asked that, given the above and assuming that the laws Congress has enacted to govern and punish spillers specifically, why is the DOJ going to such extremes to add criminal penalties to what Congress has already provided and what already works under the FWPCA? An answer to this question would have to be given by DOJ. Given the amount of overt criminal activity in the land of late, particularly in corporate governance malfeasance, that they don't have enough to do would not seem to answer.

The imperatives of effective response to oil spills

In prosecuting an effective response to significant oil spills, it is critical that appropriate resources are mobilized quickly and deployed effectively. If environmental and economic resources are to be protected with maximum effectiveness, the application of response resources must not only be directed to the right places in a timely fashion, that application must be managed with the utmost cooperation with and satisfaction of the overseeing federal and state agencies. In other words, the effectiveness of the response can be as much a factor of coordination and cooperation between the spiller (Responsible Party or RP) and overseeing agencies, as it will be a factor of effective application of the response resources themselves.

Another important and, for the RP, overriding factor is the need for the RP's response forces "to provide all reasonable

cooperation and assistance requested by a responsible official in connection with removal activities"[1]. Failure do so, either intentionally or inadvertently, can have a disastrous impact on the RP, both through loss of control of the response and loss of the limitations of liability provided under the law. The RP is therefore in an unenviable position to start with; the imperatives of effectively dealing with an initially uncontrolled oil spill on one hand and the danger of inadvertently coming to cross-purposes with the "responsible official" on the other.

Under OPA-90 and subsequent usage, the requisite coordination and organization for effecting those ends has been formalized in an arrangement compatible with a scheme known as the Incident Command System (ICS) with its attendant Unified Command Structure (UCS). The organizational wiring diagram in Figure 1 illustrates commercial ICS with a UCS "troika" leadership.

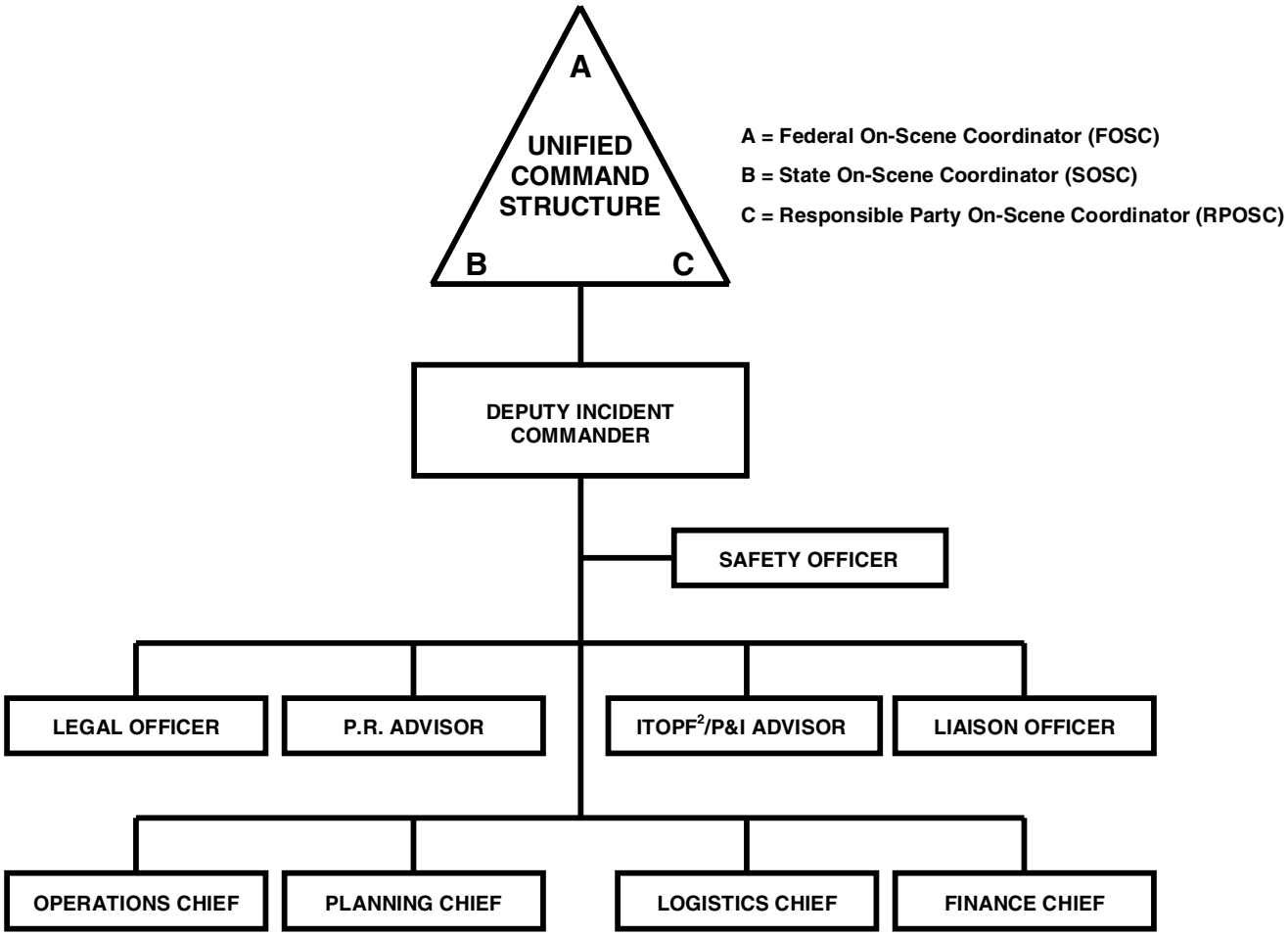

Figure 1. The Unified Command Structure and a Commercial Incident Command System.

As illustrated in the Figure, the positions of the Incident Commander and others below include the key elements of a conventional Spill Management Team (SMT) and are in accord with the SMT component requirements of regulations promulgated under OPA-90. The Unified Command Structure at the top of the Figure reflects a standard representation of the form and function of the Unified Command as it has evolved through usage. In that illustration, the Unified Command is made up of a Federal On-Scene Coordinator (FOSC) representing federal government interests, a State On-Scene Coordinator (SOSC) representing state or states interests and a Responsible Party On-Scene Coordinator (RPOSC) representing that party's interests. In addition to the Unified Command's responsibility for overall direction of the response, its other functions include development and oversight of response strategies as well as provision of an interface with the media, the next layer of federal and state authorities and other agencies (i.e. Bureau of Land Management, National Park Service, National Forest Service, etc) and stakeholders whose interests may have been impacted by a spill.

The positions of "ITOPF" and Legal Advisors, although not included as a regulatory requirement for the SMT or shown in that position in most ICS wiring diagrams, constitute our view of commercial requirements of the SMT that are usually overlooked or downplayed in government versions of the Team. The London-based ITOPF is an organization supported by the Protection and Indemnity (P&I) underwriters and which, at their request, will field one or more spill response experts from their technical group (ITOPF Representatives) to assist vessel owners in response to serious spill casualties. The "P&I Representative" is usually US-based and is similarly fielded by P&I interests for the same purposes as the ITOPF Representative. Both resources can

bring considerable proven experience and capability to the SMT and should therefore be utilized as an integral part of the Team.

For most marine casualty-related spills, the pre-designated FOSC is the Coast Guard Captain of the Port (COTP) for the COTP Zone in which the casualty occurs. The pre-designated FOSC in inland areas (generally away from navigable waters) will be an EPA officer from the EPA Region in which the spill occurs. OPA-90, and the Federal Water Pollution Control Act that it amends, vests the ultimate authority to see that an oil spill is properly controlled and removed by the RP in the FOSC. Of the "partners" in the Unified Command Structure, the FOSC is therefore the more equal partner, able to act as tiebreaker or even as dictator in the event of any disagreement or standoff between components. Obviously such potential is inherent in a divided-command system such as represented by the UCS and can be a signal weakness of the scheme if not properly led by the FOSC. It has been said by some wags that any "troika" system of command will have two-too many commanders (what I'd call the "Tu-Tu Difficulty").

The SOSC is a state officer designated by the state in which the spill occurs. This officer generally is furnished by the state agency involved in protection of the environment such as a Department of Environment Quality (DEQ) or the like. He[3] is assigned the responsibility of and authority for representing the state's interests and vested with the authority to commit the state to decisions made and actions taken by the Unified Command.

The RPOSC may be an individual designated by the RP to represent and commit him to decisions made and actions taken by the Unified Command. This individual will often be the OPA-90-created Qualified Individual (QI) that owner/operators of vessels/facilities subject to the Vessel/Facility Response Plan requirements of that Act are required to name in those plans or an officer of the owner/operator company or other individual designated by it.

The impact of strict criminal liability in responses to the accidental spillage of oil

A cardinal rule in effective emergency response to oil spill casualties, particularly under OPA-90-imposed systems, is close coordination with and effective communication between the Responsible Party, the Coast Guard/EPA and state overseeing agencies. Anything hampering such cooperation can degrade effectiveness of response and thereby threaten its ability to protect the environment.

A command system, particularly of the kind represented by the Unified Command Structure, is inherently more sensitive to and dependant on close cooperation between the principal elements or "partners" directing response activities. The chilling effect that even the potential for strict criminality for accidental oil spills will inevitably have on open and candid relationships between these parties introduces a most serious impediment to productive relationships between the partners. This impediment will inevitably impact the mounting of a most effective spill response adversely.

Aside from the illogic involved in stretching the intent of law for the purpose of imposing strict criminal liability on accidental spills where there is no demonstrable need to do so, the potential for adverse and counterproductive results produced, with attendant degrading of the response, unnecessarily increases the danger of harm to the environment. This threat to effective spill response management is of grave concern.

In a serious spill, it is critical that the attention, energies and priorities of all the participants in the response organization and particularly the Unified Command are focused on achieving the most effective response and application of resources. This is especially so in the initial "emergency" phases of a response when decisions made and actions taken can determine the success or failure of the entire response – a determination that usually cannot be cured or effectively reversed at a later time. To have the corrosive influence of potential criminal prosecution unnecessarily injected into the picture at this point can not only adversely affect the needed cooperative environment, in some instances it can bring effective cooperation to a standstill altogether.

An often-heard defense to these DOJ activities is that the incidence of actual prosecution is low. From the viewpoint of the impact of the mere threat of prosecutorial activity has on a spill response organization and its effectiveness, that defense widely misses the point – it is the potential for such prosecution that causes the damage. If the potential for criminal prosecution exists where there has clearly been no criminal intent or behavior involved, the entire character of the relationship between the RPs, the government and/or other entities will inevitably be affected. Given the behavior DOJ has already exhibited in spill responses to date and without any further like activity on their part, the specter of criminal prosecution is now a most important consideration for any prudent response team when framing out and managing response to a spill. The appearance of DOJ representatives in a Command Center now merely serves as a visible reminder of the importance of this concern.

As an example of the impact of strict criminalization of oil spills, it was announced in a recent rather serious spill incident involving a stranded vessel that DOJ personnel had arrived in the Command Center. Although the facts surrounding the incident indicated the incident to be an ordinary navigational error at the worst, the mere fact that the potential for strict criminal liability existed and DOJ was on scene brought about a sudden change of atmosphere. Legal advisors cautioned the RP's SMT members that care should be exercised in all exchanges between the team members and agency personnel concerning the casualty and that any doubts respecting the application of this caution should be resolved in favor of holding communication until legal advisors had been consulted for approval. This, obviously, leads to increased formalization of the relationships of the RP's SMT with the agency personnel and an attendant restriction on communications between them. This cannot but impede the flow of information to the potential detriment of the response.

A further example some years ago involved a simple mechanical failure resulting in leakage from an overboard discharge valve on a tankvessel lightering offshore. The leakage was relatively minor but the incident was high profile because of the time of year, the proximity of recreational beaches at the beginning of the beach season, and the personal involvement of the State's governor. We were contacted by foreign vessel owners and asked if it would be helpful if a director of the company were to come over and make himself available to voice the company's concern with the incident and their commitment to rectify the situation and ensure that problems caused by the leakage were fairly dealt with. Knowing the nature of the casualty causing the spill and being unaware of DOJ's extra-OPA-90 activities at that time, we advised that it would be helpful if such a visit were made. Accordingly, the director came over, made joint media appearances with the Governor, met with other stakeholders and returned to his own country without incident.

It wasn't until several months later that we learned from the FOSC that he had been contacted by DOJ, after they had learned the Director was coming over, and asked whether or not they should arrest him. Regardless of the unlikely chance that this FOSC would have said yes, we had to conclude that, so long as there was the capability for DOJ to use strict criminal liability statutes to prosecute purely accidental oil spills, we could never again be so cavalier in recommending that anyone located beyond DOJ jurisdiction, voluntarily expose themselves to DOJ's caprices. This will, needles to say, limit the capabilities of owners and operators to directly lend valuable assistance and unique insight to the SMT thus potentially degrading response.

To appreciate the problem faced by an Incident Commander in serious spill situation, he is initially in an extremely tight spot in dealing with the spill itself; evaluating what is needed to bring the spill under control, protecting environmentally sensitive areas, marshalling and deploying resources where and when need to accomplish these ends while, at the same time dealing with federal, state and stakeholder interests and concerns to ensure that all are heard and in accord with what he is doing. Add to this his need to ensure that the FOSC is in agreement with what he is doing and the he is complying with the OPS-90 mandate that he ". . . provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities . . . " else he can be the cause cause the loss of his principal's legal limits of liability and it is evident that he is already walking a tightrope over a populous pit of alligators. The unnecessary addition of potential prosecution under strict criminal liability provisions essentially makes the Incident Commander's already near untenable position almost impossible and can severely inhibit his ability to act with the spontaneity and flexibility that is so critical in emergency responses.

A first priority as Qualified Individual/Incident Commander in mounting a response is to assess the situation, identify the endangered resources and mount the necessary response. Almost simultaneously the FOSC must be contacted and apprised of the assessment and views exchanged on the intended course of action in responding to the incident. It is of paramount importance to the effectiveness of the response at this juncture, that both the FOSC and the QI/Incident Commander are in accord and are comfortable with the assessment and the intended course of action and that they continue to cooperate to remain so throughout the response. To a lesser but extremely important degree, the same will go for the SOSC and other stakeholders concerned with the incident. The mere fact that the potential for strict criminal liability is present, without the need for criminal activity or intent, is inimical to such cooperation and cannot but degrade the quality and effectiveness of any response. It is not that vital information will be intentionally withheld but that the channels of free communication will be needlessly constricted, coordination inhibited, and effective response thereby degraded.

A simple solution

An important result of the passage of OPA-90 was the extension of the range of activities or lack thereof that can incur criminal penalties in response to oil spills. In legislation respecting oil spills, the Congress purposely prescribed the specific activities to which criminal penalties can be imposed representing a significant increase over those imposed by the pre-OPA-90 FWPCA.

Where legislation such as OPA-90 is clearly intended to govern proscribed activities and has been effective for such a long time in doing so, it is difficult to understand the need to reach out to dredge up strict criminal sanctions from unrelated legislation; legislation containing not the slightest hint of intent or need to apply such sanctions. This is especially so when it is considered that it has so much potentially counterproductive impact on the ultimate goals of the legislation involved, e.g. the protection of the environment.

A most effective and straightforward way to reverse the damage that is being and has been done to the system would be to legislatively limit the application of criminal penalties for unintentional oil discharges specifically to the those already provided by Congress in OPA-90. By so prohibiting utilization of laws other than OPA-90 for this purpose, the specter of criminal prosecution of clearly unintentional, accidental spills can be effectively eliminated. The ability to establish effective relationships, communication and coordination by and between the principal players in response to clearly accidental spills could then be effectively restored.

To that end and, at the behest of interested parties in the industry and public at large, legislation was submitted in both houses of the Congress late in the last session.

The purpose of both bills was to insure that the penalties provided for in the Oil Pollution Act of 1990 are the exclusive criminal penalties for any action or activity that may arise or occur in connection with certain discharges of oil or a hazardous substance.

In the): Mr. BREAUX introduced the bill; which was referred to the Committee on Environment and Public Works

In the House, Mr. VITTER (for himself, Mr. COBLE, and Mr. CLEMENT) introduced HR 5100, which was referred to the Committee on Transportation and Infrastructure and to the Committee on the Judiciary. The provisions of both bills were identical, simple and straightforward, implementing the objective stated in the titles as follows:

"SECTION 1. AFFIRMATION OF PENALTIES UNDER OIL POLLUTION ACT OF 1990.

a. IN GENERAL- Notwithstanding any other provision or rule of law, section 4301(c) and 4302 of the Oil Pollution Act of 1990 (Public Law 101-380; 104 Stat. 537) and the amendments made by those sections provide the exclusive criminal penalties for any action or activity that may arise or occur in connection with a discharge of oil or a hazardous substance referred to in section 311(b)(3) of the Federal Water Pollution Control Act [33 U.S.C. 1321(b)(3)].

b. RULE OF CONSTRUCTION- Nothing in this section shall be construed to limit, or otherwise exempt any person from, liability for conspiracy to commit any offense against the United States, for fraud and false statements, or for the obstruction of justice."[4]

Although not much was expected in that Congress, the submission of these bills got the ball rolling. It was hoped that re-submission of the bills would occur early in the present Congress, however the events of 11 September have changed priorities on many things. The need for relief in this area is, nevertheless, still critical.

Summary

In the FWPCA and its OPA-90 amendment, the Congress has specifically prescribed and provided adequate means to prosecute and punish accidental and intentional polluters of our waterways. Over the past three decades, those laws have been most effective

in achieving the objectives of the Congress – our waterways have been largely restored to their pre-20th century condition and continuing insults to them markedly minimized or eliminated entirely. Intentional polluters have been either jailed and/or put out of business.

Since the inception of the FWPCA the Congress has always provided criminal penalties for criminal activity on the part of the spiller. If a need to impose strict criminal liability on spillers had been intended, OPA-90 would have been the logical vehicle to accomplish this. Nevertheless, the Department of Justice has reached into unrelated legislation, clearly intended for different purposes, to apply a standard of strict criminal liability to any spill regardless of intent or standard of care.

Although the unrelated legislation now used to impose strict criminal liability has been on the books for more than a century in one case, it had never occurred to anyone, including the framers of the legislation, that such laws be used to punish accidental spillers. The introduction of strict criminal liability is particularly troublesome in that it enlists unrelated law to influence an area specifically addressed by legislation designed for that purpose; legislation that has worked well for over thirty years to regulate the target activities and to successfully achieve the objectives of not only protecting but improving environment quality.

Strict criminalization of accidental oil spills is demonstrably counterproductive to effective protection of the environmental since it poses a serious impediment to cooperation and coordination by and between those charged by law to respond to spills. The impediment is particularly egregious in that it threatens the proper functioning of an inherently sensitive Unified Command Structure evolving in spill response management under OPA-90 requirements.

The bipartisan legislation introduced into both houses in the late Congress is an ideal means for further defining Congressional intent and limiting criminal prosecution and penalties to those provided in the FWCPA. The need to remedy the situation and limit DOJ activities in this particular area therefore continues. Most importantly, so long as there is the opportunity to threaten prosecution of accidental spills under the principal of strict criminal liability, the resulting adverse impact on spill response effectiveness with the environment potentially the ultimate loser will continue.

Conclusion

Since OPA-90, an effective but sensitive new response management concept in the form of the Unified Command Structure and the Incident Command System have been introduced to guide response to spillage of oil and noxious substances. The concept is effective in that it facilitates the rapid amalgamation of disparate management resources into an effective team. It is sensitive in that it injects a unique "command" structure in the Unified Command, involving three potential "commanders". This structure makes coordination and communication between the individuals involved of paramount importance to effective command.

The latter-day activities of DOJ, enlisting unrelated law to add the potential for strict criminal liability penalties to the penalties provided by the FWPCA in the prosecution of accidental spillers, have not only added little to the armory needed to "get the polluter", but that potential for strict criminal liability, in itself, adversely impacts the all-important cooperation of the elements of the Unified Command. Such impact can degrade response effectiveness with resulting increased harm to the environment.

Legislation, introduced in the late Congress would limit criminal actions against oil spillers to activities proscribed and remedies provided by Congress for this purpose in the FWPCA, however, such legislation has not yet been reintroduced in the present Congress. Introduction and passage of that legislation would remove the specter of criminal prosecution from clearly accidental spills and, most importantly, free the elements of the Unified Command to cooperate most effectively, coordinate to the fullest and thereby limit the consequences of spills. Introduction and passage of this legislation therefore deserves the enthusiastic support of all concerned with the environment and with the economic vitality of the country.

Biography

John James Gallagher. Mr. Gallagher, and engineer and attorney, has been actively engaged in oil spill response matters since 1971. He has participated in or managed responses to such incidents as ESSO BRUSSELS (1973), ARGO MERCHANT (1976), West Hackberry Strategic Petroleum Reserve blowout (1979), EXXON VALDEZ (1989), Operation Desert Storm (1991), and MV NEW CARISSA (1999-2001).

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[1] Public Law 101-380, §1004(c)(2)(B).
[2] International Tanker Owners Pollution Federation.
[3] Words importing gender in this paper include all genders.
[4] Senate Bill S 2944 and House Bill HR 5100, 106th Congress.